

Thomas Jefferson to Edmund Randolph, May 8, 1793 , from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

TO THE ATTORNEY GENERAL J. MSS. (EDMUND RANDOLPH)

May 8. 1793.

I have been still reflecting on the draught of the letter from the Secretary of the Treasury to the Custom house officers, instructing them to be on the watch as to all infractions or tendencies to infraction of the laws of neutrality by our citizens & to communicate the same to him. When this paper was first communicated to me, tho' the whole of it struck me disagreeably, I did not in the first moment see clearly the improprieties but of the last clause. The more I have reflected, the more objectionable the whole appears.

By this proposal the Collectors of the customs are to be made an established corps of spies or informers against their fellow citizens, whose actions they are to watch in secret, inform against in secret to the Secretary of the Treasury, who is to communicate it to the President. If the action and evidence appear to justify a prosecution, a prosecution is to be set on foot on the *secret information of a collector*. If it will not justify it, then the only consequence is that the mind of government has been poisoned against a citizen, neither knowing nor suspecting it, & perhaps too distant to bring forward his justification. This will at least furnish the collector with a convenient weapon to keep down a rival, draw a cloud over an inconvenient censor, or satisfy mere malice & private enmity.

The object of this new institution is to be to prevent infractions of the laws of neutrality, & preserve our peace with foreign nations. Acts involving war, or proceedings which respect

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foreign nations, seem to belong either to the department of war, or to that which is charged with the affairs of foreign nations. But I cannot possibly conceive how the superintendence

of the laws of neutrality, or the preservation of our peace with foreign nations can be ascribed to the department of the treasury, which I suppose to comprehend merely matters of revenue. It would be to add a new & a large field to a department already amply provided with business, patronage, & influence.—It was urged as a reason, that the collectors of the customs are in convenient positions for this espionage. They are in convenient positions too for building ships of war: but will that business be transplanted from it's department, merely because it can be conveniently done in another?

It seemed the desire that if this means was disapproved, some other equivalent might be adopted.—Tho we consider the acts of a foreigner making a capture within our limit, as an act of public hostility, & therefore to be turned over to the military, rather than the civil power; yet the acts of our own citizens infringing the laws of neutrality, or contemplating that, are offences against the ordinary laws and cognisable by them. Grand juries are the constitutional inquisitors & informers of the country, they are scattered everywhere, see everything, see it while they suppose themselves mere private persons, and not with the prejudiced eye of a permanent & systematic spy. Their information is on *oath*, is public, it is in the vicinage of the party charged, & can be at once refuted. These officers taken only occasionally from among the people, are familiar to them, the office respected, & the experience of centuries has shewn that it is safely entrusted with our character, property & liberty. A grand juror cannot carry on systematic persecution against a neighbor whom he hates, because he is not permanent in the office.—The Judges generally, by a charge, instruct the Grand jurors in the infractions of law which are to be noticed by them; & our judges are in the habit of

printing their charges in the newspapers. The Judges having notice of the proclamation, will perceive that the occurrence of a foreign war has brought into activity the laws of neutrality, as a part of the law of the land. This new branch of the law they will know needs

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explanation to the grand juries more than any other. They will study & define the subjects to them & to the public. The public mind will by this be warned against the acts which may endanger our peace, foreign nations will see a much more respectable evidence of our *bonâ fide* intentions to preserve neutrality, and society will be relieved from the inquietude which must forever be excited by the knowledge of the existence of such a poison in it as secret accusation. It will be easy to suggest this matter to the attention of the judges, & that alone puts the whole machine into motion. The one is a familiar, impartial & precious instrument, the other, not popular in it's present functions, will be odious in the new ones, and the odium will reach the Executive who will be considered as having planted a germ of private inquisition absolutely unknown to our laws.—I am not quite certain what was considered as agreed upon yesterday, it cannot be too late however to suggest the substitution of the Judges and grand-jurors in place of the collectors of the customs.

P. S. I understood Colo. H. yesterday that he should confer with the President on the subject of our deliberation. As that is not exactly the channel thro' which I would wish my objections to be represented, should the President mention the subject to you I will thank you to communicate to him this note, or it's substance.